

SERVICE DATE - JULY 23, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423****ENVIRONMENTAL ASSESSMENT****STB DOCKET NO. AB-6 (Sub. No. 401X)****The Burlington Northern and Santa Fe Railway Company – Abandonment Exemption –
in Polk County, IA****BACKGROUND**

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon 1.88 miles of rail line located between M.P. 67.38 and M.P. 1.45 in the City of Des Moines, in Polk County, Iowa.¹ A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the Des Moines and Kansas City Railway Company acquired part of the right-of-way between 1883 and 1896. The balance of the right-of-way in Elm Street was acquired by the former Chicago Burlington and Quincy Railroad Company (CBQ) in 1900 by city ordinance. The Des Moines and Kansas City Railway Company was a predecessor of the former CBQ. In 1970, CBQ and other railroads merged to form the Burlington Northern Railroad Company. In 1995, the Burlington Northern Railroad Company and the Atchison Topeka and Santa Fe Railway merged to become BNSF.

The line proposed for abandonment serves an area of southwestern Des Moines which is located in an urban renewal area that is proposed to be redeveloped with commercial and residential uses. The land adjoining the line is urban in nature. Prime agricultural farmlands are not present in the vicinity of the proposed abandonment. Part of the rail line corridor was formerly located within the 66 foot wide Elm Street prior to its reconstruction into the Martin Luther King Expressway. The City of Des Moines supports BNSF's plans to abandon the line, and advises that it hopes to acquire the remaining rail line if the abandonment is approved.

According to BNSF, there are five public crossings and four private railroad crossings on the line. The right-of-way varies from 50 feet to 100 feet in width. Based on information in

¹ There is an engineering equation such that Milepost 68.20 = Milepost 0.39.

BNSF's possession, the line does not contain federally granted rights-of-way. Title considerations may affect the conveyance of the land for use other than railroad purposes. Any salvage operations would be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state, and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance.

No local traffic has moved over this line for at least two years and any overhead traffic on the line can be rerouted over other lines. There would be no diversions of traffic. The Des Moines trackage has been out of service for over two years. The proposed abandonment would mitigate the environmental effects of reinstating active rail operations. The bridge over the Des Moines River was removed many years ago. The bridge over the Raccoon River was damaged in the early 1990's and remained out of service since that time. BNSF conveyed ownership of the Raccoon River bridge to the City of Des Moines in August, 2003. The Raccoon River bridge, which was located in the 100-year flood plain, was a flood hazard. The City of Des Moines has removed the bridge to improve flood control and foster development of the area.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The United States Fish and Wildlife Service in Rock Island, Illinois does not have any objections regarding the proposed abandonment. The Department of the Army, Corps of Engineers, Rock Island District has determined that the proposed abandonment does not require a Department of the Army Section 404 permit.

The Iowa Department of Natural Resources (DNR), Conservation and Recreation Division in Des Moines, has advised us that a search of their records of the project area found no site-specific records of rare species or significant natural communities. DNR records are not the result of thorough field surveys, however, and if listed species or rare communities are found during the abandonment process, additional studies and/or mitigation may be required.

The Iowa Department of Natural Resources, Water Quality Bureau in Des Moines has indicated that the Des Moines River and the Raccoon River are meandered at locations where the line crosses them, meaning the bed and the banks of the rivers in these reaches are owned by the state. Any abandonment proceedings should be coordinated with DNR, Water Quality Bureau. We will recommend a consultation condition requiring that BNSF contact DNR, Water Quality Bureau prior to commencement of any abandonment activities on this project.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. BNSF served the report on the State Historical Society of Iowa (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has requested additional information regarding the Area of Potential Effect (APE), what types of cultural resources are or may be located in the APE, and the significance of the historic properties in the APE before a determination can be made on whether this project will affect any significant historic resources. A preliminary review by the SHPO indicates that one previously recorded archaeological site, 13PK61, may be affected by the proposed project activities. 13PK61 is a multi component archaeological site that includes a prehistoric Oneota component, the remains of Fort Des Moines II, and the remains of the early town of Des Moines and several other less well-defined prehistoric components. This site is considered eligible for listing on the National Register of Historic Places. It appears that the proposed project may have an effect on a National Register eligible historic property. BNSF will consult further with the SHPO to provide sufficient information for it to provide an opinion as to whether historical resources would be affected. We, therefore, recommend a condition to address this concern.

CONDITIONS

We recommend that the following three environmental conditions be placed on any decision granting abandonment authority:

1. If listed rare species or significant rare natural communities are found during salvage activities, BNSF shall contact the Iowa Department of Natural Resources, Conservation and Recreation Division to discuss additional studies and/or mitigation which may be required.
2. To address the concerns raised by the Iowa Department of Natural Resources, Water Quality Bureau, BNSF shall, prior to commencement of any salvage activities on this project, contact the Iowa Department of Natural Resources, Water Quality Bureau concerning abandonment proceedings and any permitting requirements.
3. BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub No. 401X) in all correspondence addressed to the Board.** If you have any questions regarding this

environmental assessment, you should contact Kenneth Blodgett, the environmental contact for this case by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at blodgettk@stb.dot.gov.

Date made available to the public: July 23, 2004.

Comment due date: **August 9, 2004 (15 days).**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

